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SOLICITORS

Hot Topic – Family Law

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Celebrity chef sues wife's solicitors

London law firm Withers LLP is facing a renewed court claim from celebrity chef Marco Pierre White after the Court of Appeal ruled that the firm must answer the case.

White alleged that Withers family partner Marcus Dearle instructed his ex-wife, Mati, to steal his mail to use as ammunition in their divorce case. The celebrity chef is seeking damages for misuse of confidential or private information and wrongful interference with property.

A High Court judge, Mr Justice Eady threw out the claim in November 2008 saying *“Even though feelings often run high in the course of matrimonial disputes, that does not justify the making of allegations of criminality, against solicitors or anyone else, without a solid basis for doing so”*. Withers had argued that the claim should be struck out because it was brought only to harass his ex wife.

However, now the Court of Appeal say that the case should proceed to full trial as *“It’s not conducive to the administration of justice that such claims are simply swept under the carpet,”* although Lord Justice Sedley did concede that *“the desire for vengeance on the lawyers acting for an estranged spouse is as common as it is irrational”*

Lord Justice Ward added: *“It must always be remembered that solicitors are officers of the court and if they’re shown to have done wrong they should face the judgment of the court.”*

Withers say that the Court of Appeal has *“simply decided that this complex issue has to be argued fully in court, rather than determined on an expedited basis...We’ve always maintained that any allegations made by Marco Pierre White against Marcus Dearle and Withers are completely unfounded.”*

This case has highlighted the difficulties that are perhaps unique to family cases. Some parties find it all too easy to believe that their spouse’s solicitor is the enemy, rather than a trained professional who, although he or she has to act in their client’s best interests, also has a duty to the Court not to mislead it or any other party.

In divorces, it can be very tempting for some clients to abandon their scruples and to behave in a less than honest manner out of fear that if they are open about matters, they will lose out. Some clients try to hide assets from their spouses, while others are tempted to open their mail.

At Ellisons Solicitors, we advise against these kinds of tactics as they are simply asking for trouble. A less than straightforward approach to issues like financial disclosure simply leads to suspicion which in turn leads to much higher legal bills. Trying to hide assets is much more difficult than many people imagine and solicitors cannot mislead the Court in any way about what has happened to them. The Court has powers to claw these assets back from wherever they have been hidden and can also make punitive orders against parties who try to do this in order to defeat their spouse's claim. These can involve orders for costs and sometimes even imprisonment for contempt of court. The Court's aim is always to achieve an outcome that is fair.

At Ellisons, our family solicitors are all members of Resolution, an organisation which has Code of Practice compelling us to attempt to resolve disputes in as constructive and conciliatory a manner as is possible under the circumstances. Many of us are also trained collaborative lawyers, and can help clients to reach agreements with their spouses in an open and non-confrontational manner. The key to resolving matters in a collaborative manner is ensuring that both sides feel that the outcome is fair.

That is not to say that we are not able to act assertively when necessary. If a client is worried that his or her spouse is disposing of assets, if appropriate, we can take urgent action to freeze assets or force an unco-operative spouse to disclose evidence of undisclosed income or assets.

The key to a divorce that is as painless as possible is to avoid the temptation to behave badly.

KEY CONTACTS

					
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